

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|---------------------------------|---|-------------------------|
| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | Crim. No. 01-5-1 |
| | : | Civ. No. 20-2655 |
| JOHN MCCLURE | : | |
| | : | |

ORDER

AND NOW, this 23rd day of December, 2021, upon consideration of Defendant's *pro se* Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. No. 458); the Government's Response to Motion to Correct Sentence Under 28 U.S.C. § 2255 (Doc. No. 473); and Defendant's counseled Reply to Government's Response to Defendant's *Pro Se* § 2255 Motion (Doc. No. 507), it is hereby **ORDERED** that:

1. By agreement of the Parties, Defendant's conviction on Count 9 is **VACATED**. (Doc. Nos. 473, 507); United States v. Davis, 139 S. Ct. 2319 (2019);
2. Probation is **ORDERED** to prepare a new Presentence Investigation Report; and
3. A resentencing hearing shall be set in a future Order.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond
Paul S. Diamond, J.